

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In the Matter of :

John Alexander Research, Inc.
1753 Sierra Highway
Rosamond, California

Dr. John Alexander

Respondents

Proceeding under Section 106 of the
Comprehensive Environmental Response,
Compensation and Liability Act of 1980,
as amended by the Superfund Amendments
and Reauthorization Act of 1986,
(42 U.S.C. Section 9606)

Order No. 90-06

I. Jurisdiction

This Order is issued to John Alexander Research, Inc., and Dr. John Alexander ("Respondents") pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. 9601, et seq., by authority delegated to the Administrator of the United States Environmental Protection Agency (EPA), and redelegated to the EPA Regions.

The Director of the Hazardous Waste Management Division, EPA Region 9, has determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of the release or threatened release of hazardous substances from John Alexander Research Inc., 1753 Sierra Highway, Rosamond, California (the Site).

1 The EPA has designated an On-Scene Coordinator ("OSC") for
2 the site, pursuant to 40 C.F.R. Part 300, published at 50 Fed.
3 Reg. 47912 (November 20, 1985).
4

5 II. Findings of Fact

6 BACKGROUND

7 A. The Site occupies approximately five acres along Sierra
8 Highway in Rosamond, California and lies within an industrial/
9 residential region.
10

11 B. John Alexander Research, Inc. purchased the Site in 1984 to
12 operate a nickel catalyst recycling operation. A high tempera-
13 ture pyrolytic converter was operated at the Site to recover
14 nickel from spent nickel catalyst used in the food processing in-
15 dustry. This operation lasted approximately six (6) months
16 before it became inoperational.
17

18 C. Prior to 1984, the Site was owned by Platalloy Corporation,
19 a silver and lead smelting operation. In 1983, the smelting
20 facility suffered a major fire. Burn debris and raw material
21 used in the smelting operations were bulldozed into piles along
22 the northeastern perimeter of the Site.
23

24 D. In 1985, the Kern County Environmental Health Department
25 (KCEHD) noted an apparent high incidence of cancer deaths of
26 young children in the Community of Rosamond, California. The
27 KCEHD notified the California Department of Health Services
28 (CDHS); and in late 1985, the CDHS began conducting an investiga-

tion in the region to identify and isolate potential health hazards within the community. Soil sampling by the CDHS indicated that metal contamination was present at the Site.

E. In 1988, the CDHS and its contractor, Radian, conducted a Preliminary Investigation at the Site. The study identified several regions of heavy metal contaminated soils, burn debris containing traces of dioxin, and several containers containing various lab reagents. The CDHS issued John Alexander Research an Order to restrict access to the site by constructing a fence with warning signs around the perimeter of the facility.

F. In November of 1988, the CDHS requested that the Environmental Protection Agency (EPA) assess the Site. The EPA with its Technical Assistance Team (TAT), accompanied by the CDHS, and the Kern County Health and Fire Departments toured the Site. Following this assessment the CDHS issued an Order to John Alexander Research to repack damaged containers within 96 hours and to identify and properly label all on-site containers within ten (10) days. The Respondent began to fulfill but never completed its obligations under the CDHS Order and hired CALPI to identify, stabilize and segregate the on-site lab chemicals.

G. The CDHS has requested EPA assistance in responding to the Site pursuant to CERCLA, and specifically to assist in stabilizing the Site. In response to this request, EPA conducted another Site assessment on November 13-15, 1989, to determine the necessity for a removal action pursuant to the National Contin-

1 gency Plan.

2

3

4 **ENDANGERMENT**

5 H. Several contamination threats have been identified by EPA
6 during its site assessment. An on-site concrete sump contains an
7 extremely acidic green solution (pH < 1). Samples from this sump
8 contain concentrations of beryllium, cobalt, copper, lead,
9 nickel, silver, vanadium, and zinc that exceed the State's
10 Soluble Threshold Limit Concentration levels (STLC). Materials
11 with concentrations above the STLC are considered hazardous sub-
12 stances under CERCLA.

13

14 I. There are approximately 200 drums on-site containing
15 elevated concentrations of nickel which exceed the State's Total
16 Threshold Limit Concentration Level (TTLC); and can be considered
17 to be hazardous substances. Several of these drums are highly
18 corroded and in poor condition. In addition, there are ap-
19 proximately 123 overpacked drums containing approximately 4700
20 gallons of mineral acids, alkalines, oxidizers, and flammables
21 staged on-site. An additional thirty drums contain several un-
22 known solid materials.

23

24 J. Several large waste piles have been identified to contain
25 concentrations of antimony, arsenic, cadmium, copper, lead,
26 nickel and zinc that exceed the State's TTLCs. In addition to
27 the metals, various dioxin compounds have been tentatively iden-
28 tified. On-site soils also contain elevated concentrations of

1 copper, lead and zinc.

2
3 K. The inhalation and/or ingestion of the heavy metal compounds,
4 acids and alkalines, and organic compounds present at the Site
5 can cause severe health effects, especially to young children.
6

7 L. The immediate population at risk includes those individuals
8 working or trespassing on the Site. Individuals on Site may be
9 exposed to potentially dangerous air contaminants or may acciden-
10 tally ingest contaminated soil.
11

12 M. Off-site populations in the surrounding residential and in-
13 dustrial areas are presently at risk because of the possibilities
14 of inhaling or ingesting wind blown or surface water-borne con-
15 taminated soil and dust particles.
16

17 II. Conclusions of Law

18 A. The respondents are "persons" as defined in Section
19 101(21) of CERCLA, 42 U.S.C. Section 9601(21).
20

21 B. The property located at the John Alexander Research,
22 Inc., 1753 Sierra Highway, Rosamond, California is a "facility"
23 as defined in Section 101(9) of CERCLA, 42 U.S.C. Section
24 9601(9).
25

26 C. The high concentrations of heavy metals, mineral acids,
27 alkalines and organic compounds are "hazardous substances" as
28 term is defined in Section 101(14) of CERCLA, 42 U.S.C. Section

1 9601(14).

2
3 D. The presence of hazardous substances on the Site and
4 the potential for those substances to leak, mix and migrate con-
5 stitutes a "release" or "threatened release" of hazardous sub-
6 stances into the environment as defined in Section 101(22) of
7 CERCLA, 42 U.S.C. Section 9601(22).
8

9 E. Respondents are "responsible parties" as defined in
10 Section 107(a)(3) of CERCLA, 42 U.S.C. Section 9607(a)(3).
11

12 IV. Determinations

13 Based on the Findings of Fact and Conclusions of Law, the
14 Director, Hazardous Waste Management Division, EPA Region 9, has
15 made the following determinations:
16

17 A. The release or threatened release of hazardous sub-
18 stances and pollutants or contaminants from the Site may present
19 an imminent and substantial endangerment to the public health,
20 welfare, and the environment.
21

22 B. In order to prevent or mitigate immediate and sig-
23 nificant risk of harm to human health and the environment, it is
24 necessary that actions be taken immediately to contain and
25 prevent the release and potential release of hazardous sub-
26 stances, pollutants or contaminants from the Site.
27

28 C. The removal measures required by this Order are consis-

1 tent with the National Contingency Plan, 40 Code of Federal
2 Regulations, Part 300.

3
4 **V. Order**

5 Based upon the Findings of Fact, Conclusions of Law and
6 Determinations, EPA hereby orders the Respondents to implement
7 the following measures under the direction of EPA's On-Scene
8 Coordinator.

9
10 A. Within fourteen (14) days of the effective date of this Or-
11 der, the Respondents must isolate, stabilize and remove the
12 highly acidic-metallic solution within the concrete sump. The
13 EPA, the California Department of Health Services, and the
14 California Regional Water Quality Control Board shall be informed
15 at least forty-eight hours (48) prior to the stabilization and
16 removal of the hazardous solution in order to monitor this task.
17 Hazardous materials must be removed to a treatment storage and
18 disposal facility (TSDF) acceptable to EPA and in compliance with
19 RCRA and NCP requirements.

20
21 B. Within twenty-one days (21) of the effective date of this
22 Order, the Respondents must properly stabilize, by the applica-
23 tion of an appropriate polymer, all exposed waste piles and ex-
24 posed contaminated on-site soil to adequately prevent any off-
25 site migration of particles by wind or surface water.

26
27 The EPA and the California Department of Health Services
28 shall be informed at least forty-eight hours (48) prior to the

1 application of the polymer to monitor its application.

2
3 The polymer-sealed areas must be maintained by Respondents
4 and repaired until further notice by the EPA and the California
5 Department of Health Services.

6
7 All work must conform with Occupational Safety Health Ad-
8 ministration (OSHA) 29 CFR, Part 120.

9
10 C. The Respondents shall within 21 days (21) from the effective
11 date of this Order identify, stabilize, segregate all of the con-
12 tainers staged on-site. All containers in poor condition must be
13 overpacked or contents transferred to secure containers.

14
15 D. Within 28 days (28) days from the effective date of this Or-
16 der, the Respondents shall submit, for EPA comment and approval,
17 a Workplan and Schedule for the removal, transportation and dis-
18 posal of the remaining hazardous substances and waste on-site.

19
20 E. Within ten (10) calendar days of receipt of EPA's comments
21 on the Workplan and Schedule, if any comments are made, Respon-
22 dents shall incorporate EPA's comments and resubmit the Workplan
23 and Schedule for EPA review and comment. Upon final approval,
24 the Workplan and Schedule shall be considered incorporated into
25 this Order and enforceable under the terms of this Order.

26
27 F. Within fourteen (14) days of receipt of EPA's approval of
28 the Workplan and Schedule, Respondents shall begin the removal,

1 transportation and disposal of all the hazardous substances and
2 wastes from the Site. EPA must be notified forty-eight hours
3 (48) in advance in order to oversee the on-site operations.
4
5

6 **VI. Compliance With Other Laws**

7 Respondents shall comply with all federal, state and local
8 laws and regulations in carrying out the terms of this Order. All
9 hazardous substances removed from the facility must be handled in
10 accordance with the Resource Conservation and Recovery Act of
11 1976, 42 U.S.C. Section 6921, et seq., the regulations promul-
12 gated under that Act, and Section 121(d)(3) of CERCLA, 42 U.S.C.
13 Section 9621(d)(3).
14

15 **VII. On-Scene Coordinator**

16 EPA has appointed an On-Scene Coordinator (OSC) for the Site
17 who has the authority vested in the On-Scene Coordinator by 40
18 C.F.R. Part 300, et seq. The On-Scene Coordinator for the Site
19 for the purposes of this Order is:

20 Robert Bornstein
21 United States Environmental Protection Agency, Region 9
22 215 Fremont Street
23 San Francisco, California 94105
24 (415) 768-1225

25 **VIII. Submittals**

26 All submittals and notifications to EPA required by
27 this Order or any approved proposal under this Order concerning
28 John Alexander Research, Inc., et al., Order number 90-06, shall
be made to:

1 Jerry Clifford
2 Assistant Director, Hazardous Waste Management Division
3 United States Environmental Protection Agency, Region 9
4 215 Fremont Street
5 San Francisco, California 94105

6 Copies of all submittals and notifications shall be sent to
7 the On-Scene Coordinator.

8 All approvals and decisions of EPA made regarding the sub-
9 mittals and modifications shall be communicated to Respondents by
10 the Assistant Director, Hazardous Waste Management Division or
11 his designee. No informal advice, guidance, suggestions, or com-
12 ments by EPA regarding reports, plans, specifications, schedules,
13 or any other matter will relieve Respondents of their obligation
14 to obtain formal approvals as required by this Order.

15 **IX. Access**

16 Respondents shall provide EPA employees and other represen-
17 tatives with complete access to the facility at all times. Noth-
18 ing in this Order limits any access rights that EPA or other
19 agencies may have pursuant to law.

20 **X. Endangerment During Implementation**

21 The OSC may determine that acts or circumstances (whether
22 related to or unrelated to this Order) may endanger human health,
23 welfare or the environment and may order the Respondents to stop
24 further implementation of this Order until the endangerment is
25 abated.

26 **XI. Government Not Liable**

27 The United States Government and its employees and other
28

1 representatives shall not be liable for any injuries or damages
2 to persons or property resulting from the acts or omissions of
3 Respondents, their employees or other representatives caused by
4 carrying out this Order. For the purposes of this Order, the
5 United States Government is not a party to any contract with the
6 Respondents.

7 8 9 **XII. Noncompliance**

10 A. A willful violation or failure or refusal to comply
11 with this Order may subject Respondents to a civil penalty of up
12 to \$25,000 per day in which the violation occurs or failure to
13 comply continues, pursuant to the provisions of Section 106(b)(1)
14 of CERCLA, 42 U.S.C. Section 9606(b)(1). Failure to comply with
15 this Order without sufficient cause may also subject Respondents
16 to punitive damages of up to three times the total costs incurred
17 by the United States for site response pursuant to Section
18 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

19
20 B. EPA may take over the response action at any time if
21 EPA determines that Respondents are not taking appropriate ac-
22 tion. EPA may order additional actions it deems necessary to
23 protect public health, welfare, or the environment.

24 25 **XIII. Opportunity to Confer**

26 Respondents may request a conference with the Assistant
27 Director, Hazardous Waste Management Division, EPA Region 9, or
28 his staff to discuss the provisions of this Order. At any con-

ference held pursuant to Respondents' request, Respondents may appear in person or by counsel or other representatives for the purpose of presenting any objections, defenses or contentions which Respondents may have regarding this Order. If Respondents desire such a conference, Respondents must make a request orally within 24 hours of receipt of this Order, and confirm the request in writing immediately. A conference does not alter the effective date of the Order.

XIV. Parties Bound

This Order shall apply to and is binding upon the Respondents, their officers, directors, agents, employees, contractors, successors, and assigns.

XV. Notice of Intent to Comply

Within 24 hours of receipt of this Order, Respondents shall orally inform EPA of their intent to comply with the terms of this Order. The oral notice shall be confirmed within two days by written notice to the Director. Failure to punctually notify EPA of the Respondents' intent to fully comply will be construed by EPA as a refusal to comply.

XVI. Notice to State

Notice of the issuance of this Order has been given to the State of California and Kern County. EPA will consult with the California Department of Health Services and the County of Kern, as appropriate.

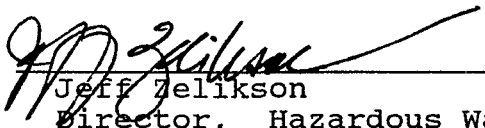
XVII. Effective Date

Notwithstanding any conferences requested pursuant to the provisions of this Order, this Order is effective within three (3) days of the date of signature by the Director of Hazardous Waste Management Division.

IT IS SO ORDERED on this 5th day of January, 1990.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

by:


Jeff Zelikson

Director, Hazardous Waste Management Division EPA Region 9

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